

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

BARBARA ANN RAYMOND
a.k.a. BARBARA ANN HICKS
a.k.a. BARBARA RAYMOND-HICKS
a.k.a. BARBARA TAYLOR
a.k.a. BARBARA A. CHILLIS
9401 Canyon Shadows Lane
Las Vegas, NV 89117

Registered Nurse License No. 326993
Public Health Nurse Certificate No. 61337
Nurse Practitioner Certificate No. 13146
Nurse Practitioner Furnishing Certificate No. 13146

Respondent.

Case No. 2012-656

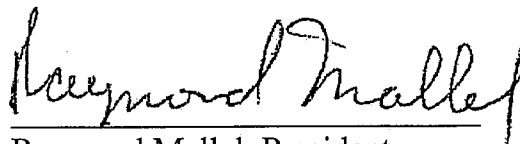
OAH No. 2012090222

DECISION

The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the Board of Registered Nursing as its Decision in the above-entitled matter.

This Decision shall become effective on January 14, 2013.

IT IS SO ORDERED this 14th day of December, 2012.



Raymond Mallel, President
Board of Registered Nursing
Department of Consumer Affairs
State of California

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PROPOSED DECISION

Administrative Law Judge Mary-Margaret Anderson, State of California, Office of Administrative Hearings, heard this matter on October 8, 2012, in Oakland, California.

Supervising Deputy Attorney General Frank H. Pacoe represented Complainant Louise R. Bailey, M.Ed., RN.

Respondent Barbara Ann Raymond represented herself. She appeared by telephone from her home in Nevada.

The record closed on October 8, 2012.

FACTUAL FINDINGS

1. Complainant Louise R. Bailey, M.Ed., RN, filed the Accusation in her official capacity as Executive Officer, Board of Registered Nursing (Board), Department of Consumer Affairs.

2. The Board issued Registered Nurse License No. 326993 to Barbara Ann Raymond (Respondent), under the name Barbara A. Chillis, on March 31, 1981. The license is scheduled to expire on October 31, 2012.

3. The Board issued Public Health Nurse Certificate No. 61337 to Respondent on October 21, 1999. The certificate is scheduled to expire on October 31, 2012.

4. The Board issued Nurse Practitioner Certificate No. 13146 to Respondent on February 4, 2002. The certificate is scheduled to expire on October 31, 2012.

5. The Board issued Nurse Practitioner Furnishing Certificate No. 13146 to Respondent on September 12, 2002. The certificate is scheduled to expire on October 31, 2012.

6. Respondent is licensed or has been licensed as a registered nurse in three other states. Her Texas license (No. 503267) was issued on November 29, 1982, and expired on September 30, 2012. Her Nevada license (No. 44303) was issued on December 18, 2003, and was placed on probation on May 19, 2011. Her Utah license (No. 7132501) was issued on September 23, 2008, placed on probation on September 13, 2011, and is scheduled to expire on January 31, 2013.

7. The standard of proof applied in making the factual findings is clear and convincing evidence.

Unprofessional conduct – out of state discipline

8. On May 19, 2011, the Nevada State Board of Nursing issued a Decision and Order regarding Respondent's nursing license in that state. The Decision and Order adopted an Agreement for Probation document executed by Respondent.

9. The Nevada action was based upon the following admissions by Respondent:

a. While licensed as a registered nurse, Respondent "represented herself as an Advanced Practitioner of Nursing and completed a physical examination and medical clearance for a patient when she did not hold" that designation.

b. While licensed as a registered nurse and employed as an assistant professor at a nursing school, Respondent "received a termination notice citing impaired personal conduct, unprofessional behavior and dishonesty in professional activity."

c. She is unable to function in the capacity of a registered nurse, "and has made inappropriate choices and decisions with or without good cause."

Respondent further acknowledged that the above "conduct constitutes a violation of the Nevada Revised Statutes NRS 632.320 (a)(g) unprofessional conduct, because the conduct violated NAC 632.890 (2) as performing acts beyond the scope of the practice of nursing, (9) impaired practice, and/or (37) practice without active license/certificate."

10. As a result, the Nevada Board placed Respondent's license on probation in an "active/restricted" status for a minimum of three years. The license was deemed inactive and she is not to practice nursing until she "submits documentation from her treating practitioner that she is competent to practice" Following that, she could practice nursing, but under specific conditions, including completion of coursework.

11. On September 13, 2011, the Division of Occupational and Professional Licensing of the Department of Commerce of the State of Utah approved a Stipulation and Order concerning Respondent's registered nurse license. The underlying conduct in the Utah action was the conduct she admitted in Nevada. In the Utah proceeding, Respondent admitted that this conduct was "unprofessional conduct as defined in Utah Code Annotated Section 58-1-501 (2)(a), (d), (e) and (h)."

12. Utah officials placed Respondent's registered nurse license on probation for three years pursuant to terms and conditions.

Respondent's evidence

13. Respondent's testimony primarily concerned her physical condition. She fell on the job while she was teaching nursing. She had surgery in November 2010, and was advised at that time by her physician that she should retire for medical reasons. Respondent's physical conditions include diabetes (with alarmingly high blood sugar levels), sleep apnea and bulging discs in her low back. Following the surgery, she could not travel or drive or do much standing or walking.

14. As regards the basis for the Nevada action, Respondent stated only that the decrease in brain cells from her medical conditions led her to make wrong decisions. She asserts that she worked diligently in California and Nevada during her nursing career, and that "this is the first thing that has happened."

15. Respondent has not sought the evaluation that would lead to her ability to practice in Nevada because she is not ready. Respondent expressed concern that she would not ever be ready to undergo an evaluation, because of her medical conditions and the fact that she will soon be reaching 65 years of age. She noted that she is required to take oxygen periodically, and is not able to function in her home as she would like. In addition, she is caring for her husband, who is receiving hospice care for cancer.

16. Respondent resigned from her teaching position at the University of Nevada in March 2011. She had not worked in that position since October 2010. Respondent has no immediate plans to renew her California license (currently scheduled to expire October 31, 2012), but neither is she ready to voluntarily give up her license. She requested that it be inactive until she is able to work. Although she feels that she will remain in Nevada, she has family in California and may wish to return at some point.

Costs

17. Complainant established that it incurred \$4,400 in costs of the investigation and enforcement of this case. In the absence of contrary evidence, this total is found to be reasonable.

LEGAL CONCLUSIONS

1. Cause for license discipline for unprofessional conduct exists pursuant to Business and Professions Code sections 2761, subdivision (a)(4) (disciplinary action against a health care professional license by another state) by reason of the matters set forth in Findings 8 through 12.

2. As cause for license discipline was established, the appropriate level must be determined. The Board's disciplinary guidelines (Cal. Code Regs., tit. 16, § 1444.5) provide that revocation or probation for three years is recommended in the event of discipline by another state. Nonetheless, it is also required that the following pertinent factors be considered:

- a. Nature and severity of the acts or offenses.
- b. Actual or potential harm to the public.
- c. Actual or potential harm to any patient.
- d. Prior disciplinary record.
- e. Number and/or variety of current violations.
- f. Mitigation evidence.
- g. Rehabilitation evidence.
- h. Overall criminal record.
- i. Passage of time since the acts or offense occurred.

3. Before the Board is a nurse who apparently practiced without incident for over 30 years and is now suffering from significant health problems. On those facts alone, her request that her license status in California be the same as in Nevada is compelling. But there are significant additional facts to consider. The admissions made in the Nevada action are varied and troubling, and Respondent seeks to explain them by references to her health. Should Respondent be able to obtain an unrestricted license to practice in Nevada, and in Utah, at some future time, she would have good grounds to attempt licensure in California as

well. But it is clear that she is not safe to practice nursing at this time and it is therefore determined that the public interest requires that her nursing license and other certificates be revoked. She will be welcome to petition for reinstatement when and if she is able to demonstrate that she can safely work as a nurse.

4. Business and Professions Code section 125.3 provides:

... the board may request an administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

By reason of the matters set forth in Finding 17, the reasonable costs in this matter are \$4,400.

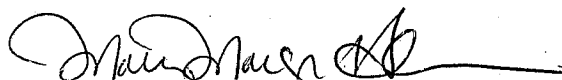
5. The case of *Zuckerman v. Board of Chiropractic Examiners* (2002) 29 Cal.4th 32 sets forth the factors to be considered in determining the reasonableness of costs. The factors include whether the licensee has been successful at hearing in getting charges dismissed or reduced, the licensee's subjective good faith belief in the merits of his or her position, whether the licensee has raised a colorable challenge to the proposed discipline, the financial ability of the licensee to pay, and whether the scope of the investigation was appropriate to the alleged misconduct. Although there was no specific evidence of inability to pay, it is reasonable to infer that Respondent's circumstances at this time indicate reduced financial circumstances. In consideration of this, it is determined that the costs recoverable by the Board should be reduced to \$2,000 and Respondent shall be ordered to pay that amount.

ORDER

1. Registered Nurse License No. 326993, issued to Respondent Barbara Ann Raymond, is revoked.
2. Public Health Nurse Certificate No. 61337, issued to Respondent Barbara Ann Raymond, is revoked.
3. Nurse Practitioner Certificate No. 13146, issued to Respondent Barbara Ann Raymond, is revoked.
4. Nurse Practitioner Furnishing Certificate No. 13146, issued to Respondent Barbara Ann Raymond, is revoked.

5. If and when Respondent's license is reinstated, he or she shall pay to the Board costs associated with its investigation and enforcement pursuant to Business and Professions Code section 125.3 in the amount of \$2,000. Respondent shall be permitted to pay these costs in a payment plan approved by the Board. Nothing in this provision shall be construed to prohibit the Board from reducing the amount of cost recovery upon reinstatement of the license.

DATED: October 15, 2012



MARY-MARGARET ANDERSON

Administrative Law Judge

Office of Administrative Hearings

Exhibit A

Accusation Case No. 2012-656

1 KAMALA D. HARRIS
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Attorneys for Complainant

6
7 **BEFORE THE**
BOARD OF REGISTERED NURSING
8 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

9
10 In the Matter of the Accusation Against:

Case No. 2012-656

11 **BARBARA ANN RAYMOND**
a.k.a **BARBARA ANN HICKS**
12 a.k.a **BARBARA RAYMOND-HICKS**
a.k.a **BARBARA TAYLOR**
13 a.k.a **BARBARA A. CHILLIS**
9401 Canyon Shadows Lane
14 Las Vegas, NV 89117

A C C U S A T I O N

15 **Registered Nurse License No. 326993**
Public Health Nurse Certificate No. 61337
16 **Nurse Practitioner Certificate No. 13146**
Nurse Practitioner Furnishing Certificate No.
17 **13146**

18 Respondent.

19
20 Complainant alleges:

21 **PARTIES**

22 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
23 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
24 Consumer Affairs.

25 2. On or about March 31, 1981, the Board of Registered Nursing issued Registered
26 Nurse License Number 326993 to Barbara Ann Raymond, a.k.a. Barbara Ann Hicks, a.k.a.
27 Barbara Raymond-Hicks, a.k.a. Barbara Taylor, a.k.a. Barbara A. Chillis (Respondent). The
28

1 Registered Nurse License was in full force and effect at all times relevant to the charges brought
2 herein and will expire on October 31, 2012, unless renewed.

3 3. On or about October 21, 1999, the Board of Registered Nursing issued Public Health
4 Nurse Certificate Number 61337 to Barbara Ann Raymond (Respondent). The Public
5 Health Nurse Certificate was in full force and effect at all times relevant to the charges brought
6 herein and will expire on October 31, 2012, unless renewed.

7 4. On or about February 4, 2002, the Board of Registered Nursing issued Nurse
8 Practitioner Certificate Number 13146 to Barbara Ann Raymond (Respondent). The Nurse
9 Practitioner Certificate was in full force and effect at all times relevant to the charges brought
10 herein and will expire on October 31, 2012, unless renewed.

11 5. On or about September 12, 2002, the Board of Registered Nursing issued Nurse
12 Practitioner Furnishing Certificate Number 13146 to Barbara Ann Raymond (Respondent). The
13 Nurse Practitioner Certificate was in full force and effect at all times relevant to the charges
14 brought herein and will expire on October 31, 2012, unless renewed.

15 JURISDICTION

16 6. This Accusation is brought before the Board of Registered Nursing (Board),
17 Department of Consumer Affairs, under the authority of the following laws. All section
18 references are to the Business and Professions Code unless otherwise indicated.

19 STATUTORY PROVISIONS

20 7. Section 2750 of the Business and Professions Code provides, in pertinent part, that
21 the Board may discipline any licensee, including a licensee holding a temporary or an inactive
22 license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing
23 Practice Act.

24 8. Section 2764 of the Business and Professions Code provides, in pertinent part, that
25 the expiration of a license shall not deprive the Board of jurisdiction to proceed with a
26 disciplinary proceeding against the licensee or to render a decision imposing discipline on the
27 license. Under section 2811(b) of the Code, the Board may renew an expired license at any time
28 within eight years after the expiration.

9. Section 2761 of the Business and Professions Code, in pertinent part, states:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

"(a) Unprofessional conduct, which includes, but is not limited to, the following:

• • •

"(4) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action against a health care professional license or certificate by another state or territory of the United States, by any other government agency, or by another California health care professional licensing board. A certified copy of the decision or judgment shall be conclusive evidence of that action.

• • •

10. Section 490 of the Business and Professions Code provides, in pertinent part, that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

11. Section 125.3 of the Business and Professions Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

FIRST CAUSE FOR DISCIPLINE

(Unprofessional Conduct - Out of State Discipline)

12. Respondent is subject to disciplinary action under Business and Professions Code section 2761, subdivision(a)(4), in that on or about May 19, 2011 in a disciplinary action before the Nevada State Board of Nursing, Case Nos. 1149-10C and 0215-11C, the Nevada State Board of Nursing issued a Decision and Order adopting the Agreement For Probation of Nevada Licensed Professional Nurse License No. RN 44303, issued to Barbara Raymond-Hicks.

13. The underlying conduct supporting the Nevada State Board of Nursing's disciplinary action is based on the following acts and admissions: (1) Respondent admitted that while licensed

1 as a Registered Nurse, she represented herself as an Advanced Practitioner of Nursing and
2 completed a physical examination and medical clearance for a patient when she did not hold a
3 certificate as an Advanced Practitioner of Nursing in the State of Nevada; (2) Respondent
4 admitted that while licensed as a Registered Nurse and employed as an Assistant Professor at a
5 Las Vegas nursing school, she received a termination notice citing impaired personal conduct,
6 unprofessional behavior and dishonesty in professional activity; and (3) Respondent further
7 admitted that she is unable to function in the capacity of a Registered Nurse and has made
8 inappropriate choices and decisions with or without good cause.

9 Respondent acknowledged that her conduct constituted a violation of the Nevada Revised
10 Statutes N.R.S. 632.320(1)(g) unprofessional conduct, because her conduct violated NAC
11 632.890(2) as performing acts beyond the scope of the practice of nursing, (9) impaired practice,
12 and/or (37) practice without active license/certificate. Respondent acknowledged that her acts and
13 admissions subject her to disciplinary action by the Nevada State Board of Nursing. On or about
14 May 19, 2011, Respondent's Nevada Licensed Professional Nurse, license number RN44303 was
15 placed on probation with an Active/Restricted licensure status for a minimum of three (3) years
16 under specified terms and conditions.

17 SECOND CAUSE FOR DISCIPLINE

18 (Unprofessional Conduct - Out of State Discipline)

19 14. Respondent is subject to disciplinary action under Business and Professions Code
20 section 2761, subdivision(a)(4), in that on or about September 13, 2011, the Division of
21 Occupational and Professional Licensing of the Department of Commerce of the State of Utah
22 approved a Stipulation and Order In The Matter Of Barbara Ann Raymond-Hicks To Practice As
23 A Registered Nurse In The State Of Utah, Case No. DOPL 2011-291.

24 Respondent admitted in the stipulation above that her conduct supported discipline of her
25 licensed professional nurse license in the State of Nevada, and that this conduct was
26 unprofessional conduct as defined in Utah Code Annotated Section 58-1-501 (2)(a), (d), (e) and
27 (h). The underlying conduct in which the Nevada State Board of Nursing disciplined
28 Respondent's license in Nevada is described in paragraph 13, above.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number 326993, issued to Barbara Ann Raymond;

2. Revoking or suspending Public Health Nurse Certificate Number 61337, issued to Barbara Ann Raymond;

3. Revoking or suspending Nurse Practitioner Certificate Number 13146, issued to Barbara Ann Raymond;


4. Revoking or suspending Nurse Practitioner Furnishing Certificate Number 13146, issued to Barbara Ann Raymond;

5. Ordering Barbara Ann Raymond to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

6. Taking such other and further action as deemed necessary and proper.

DATED:

April 24, 2012

for 

LOUISE R. BAILEY, M.ED., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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